



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BLVD  
CHICAGO, IL 60604

### **MEMORANDUM**

SUBJECT: Second Revised Recusal Statement

FROM: Debra Shore  
Regional Administrator

TO: Michael S. Regan  
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum updates my prior recusal statement dated February 14, 2022, to remove two companies, AT&T and Nexstar Media Group, in which I no longer have a financial interest and to add a new company, T-Mobile, to the list of specific party matters from which I am recused.

#### *FINANCIAL CONFLICTS OF INTEREST*

As required by the criminal conflict of interest law, 18 U.S.C. § 208(a), I will not participate personally and substantially<sup>1</sup> in any particular matter<sup>2</sup> that will have a direct and predictable effect on my financial interests or the financial interests of a person whose interests are imputed to me unless I first obtain a written conflict of interest waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). The interests of the following persons are imputed to me: my spouse or my minor child; a general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization

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<sup>1</sup> To participate “*personally*” means to participate directly. It includes the direct and active supervision of the participation of a subordinate in the matter. To participate “*substantially*” means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to the matter, but also on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial. Personal and substantial participation may occur when, for example, an employee participates through decision, approval, disapproval, recommendation, investigation, or the rendering of advice in a particular matter. *See* 5 Code of Federal Regulations (C.F.R.) § 2640.103(a)(2).

<sup>2</sup> A “*particular matter*” includes only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The term may include matters which do not involve formal parties and may extend to legislation or policy making that is narrowly focused on the interests of a discrete and identifiable class of persons. It does not, however, cover consideration or adoption of broad policy options directed to the interests of a large and diverse group of persons. *See* 5 Code of Federal Regulations (C.F.R.) § 2640.103(a)(1).

with which I am negotiating or have an arrangement concerning prospective employment.

*Particular matters involving specific parties*<sup>3</sup>

Given the value of my financial interests, I must disqualify from participating personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the following companies as a specific party:

**Adobe**  
**Alphabet (Google)**  
**Apple**  
**Comcast**  
**Home Depot**  
**IBM**  
**Liberty Media Corp**  
**Sony Group Corp**  
**T-Mobile**  
**Walt Disney**  
**Xylem**

**All the underlying holdings of the [Vanguard Healthcare Index Fund \(Admiral Shares\)](#) sector fund**

*Particular Matters of General Applicability*<sup>4</sup>

Based on the value of my current financial interests, I am disqualified from participating personally and substantially in any particular matter of general applicability, such as rulemaking, having a direct and predictable effect on my financial interests as a member of the following industry sectors:

**Cable/internet communications services**  
**Consumer technology and electronics**  
**Computer hardware & software**  
**Consumer staples**  
**Healthcare**  
**Hospitality/cruise lines**  
**Information technology**  
**Internet content & media/entertainment**  
**Television & satellite radio communications services**  
**Water technology & industrial machinery**

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<sup>3</sup> *Particular matter involving specific parties* includes any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties. The term typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties. *See* 5 C.F.R. § 2640.102(l).

<sup>4</sup> *Particular matter of general applicability* means a particular matter that is focused on the interests of a discrete and identifiable class of persons, but does not involve specific parties. *See* 5 C.F.R. § 2640.102(m).

## *Divestiture*

To avoid even the appearance of a conflict of interest and fulfill my obligations to the best of my ability, I agree to divest my shares of Xylem Corporation within 90 days of the date of my first recusal statement, which I signed on January 24, 2022. Once the divestiture is complete, I will update this recusal statement and comply with the required public financial disclosure reporting requirements.

## *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

Pursuant to the federal impartiality regulations at 5 C.F.R. § 2635.502(b), I have a “covered relationship” with my former employer, the **Metropolitan Water Reclamation District of Chicago**, for one year after I last served as an employee. Therefore, I may not participate personally and substantially in any particular matter involving specific parties in which the **Metropolitan Water Reclamation District of Chicago** is a party or represents a party for one year after I last served as a commissioner, or until **October 23, 2022**, unless I am otherwise authorized to participate pursuant to the standards in 5 C.F.R. § 2635.502(d).

I am a member of the **University of Chicago’s Women’s Board** and, therefore, I may not participate in any particular matter involving specific parties in which the **University of Chicago** is a party or represents a party unless I am otherwise authorized to participate pursuant to the standards in 5 C.F.R. § 2635.502(d).

## *OBLIGATIONS UNDER EXECUTIVE ORDER 13989 (The Biden Ethics Pledge)*

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any matter involving specific parties in which my former employers<sup>5</sup> or former clients is a party or represents a party. I understand that my recusals regarding these entities will last for two years from the date that I joined federal service and will end after **October 24, 2023**. These entities are the **Great Lakes Protection Fund** and the **Illinois Women’s Institute for Leadership Training Academy**.

For the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”<sup>6</sup> Should a question arise

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<sup>5</sup> “Former employer” is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that “former employer” does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, any United States territory or possession, or any international organization in which the United States is a member state.

<sup>6</sup> See OGE Advisory DO-09-011 (3/26/09).

as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

#### *DIRECTIVE AND CONCLUSION*

To ensure that I do not participate in particular matters from which I am recused, I am asking the Deputy Regional Administrator to act on such matters without my knowledge or involvement. Therefore, please do not send or copy me on substantive emails, request that I attend meetings, or participate in any discussions, make recommendations, or otherwise make decisions about a particular matter covered by my recusal. Official actions on such matters should be made without my recommendation, knowledge, or involvement. Any inquiries regarding the extent of my recusals should be directed to the Regional Counsel or OGC/Ethics.

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Dan Utech, Chief of Staff  
Cheryl Newton, Deputy Regional Administrator  
Alfred S. Saucedo, Chief of Staff  
Robert Kaplan, Regional Counsel  
Ann Coyle, Regional Ethics Official  
Justina Fugh, Director, Ethics Office